

REMARKS

Claims 1-20 and 22-23 are pending in this application. Claims 9-12 are withdrawn from consideration. Claim 21 has been canceled without prejudice or disclaimer.

Applicants are pleased to note the Examiner indicated that claims 13-20 are allowed and claims 4-6 and 8 are allowable.

Reconsideration and allowance in view of the foregoing amendments and following remarks are respectfully requested.

Entry of this amendment is proper under 37 C.F.R. § 1.116 as the amendments:

(a) place the application in condition for allowance for the reasons discussed herein;
(b) do not raise any new issues that would require further consideration and/or search as the Applicants merely amended claim 1 to include the limitation “wherein none of the plurality of gas discharge holes in said lattice-like shower head has a normal perpendicular to the surface of the substrate,” recited in already examined claim 21;

(c) do not present any additional claims without canceling a corresponding number of claims; and

(d) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented as they are in response to arguments raised in the final rejection. Entry of the Amendment is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1, 7 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tetsuka *et al.* (Japanese Patent Publication 06-061153A) in view of Hama *et al.* (US Pat. No. 5,525,159) and Oyama (Japanese Patent Publication 02-237020). Applicants respectfully traverse this rejection for at least the following reasons.

Applicants have amended claim 1 by including the limitation recited in dependent claim 21. Therefore, claim 1 is now equivalent to claim 21. Claim 1 now recites, *inter-alia*, “wherein none of the plurality of gas discharge holes in said lattice-like shower head has a normal perpendicular to the surface of the substrate.”

The Examiner concedes that Tetsuka *et al.* in view of Hama *et al.* and Oyama does not disclose, teach or suggest none of the plurality of gas discharge holes in the lattice-like shower head has a normal perpendicular to the surface of the substrate. The Examiner, however, relies on Matsuda *et al.* and contends that Matsuda *et al.* discloses a gas inlet

structure wherein none of plurality of gas discharge holes in the lattice-like shower head has a normal perpendicular to the surface of the substrate.

Applicants submit that the present application has a priority date of May 26, 1999 which is earlier than the US filing dated of June 22, 1999 of Matsuda *et al.* The priority date of May 26, 1999 is claimed under 35 U.S.C. 119(a)-(d)/365(b) based on Application No. 11-186258 filed in Japan. To perfect the priority, Applicants submitted a certified copy of the English translation of Japanese Application No. 11-186258 on January 4, 2001. The Examiner has acknowledged receipt of the priority documents in PTO-326 (Office Action Summary) form part of paper No. 6. on April 25, 2002. Consequently, Applicants submit that Matsuda *et al.* is precluded from use as a prior art in the present application.

Therefore, Applicants respectfully submit that claim 1, and claims 7 and 23 which depend from claim 1, are patentable and respectfully request that the rejection of claims 1, 7 and 23 under § 103(a) be withdrawn.

Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Tetsuka *et al.* (Japanese Patent Publication 06-061153A) in view of Hama *et al.* (US Pat. No. 5,525,159) and Oyama (Japanese Patent Publication 02-237020) as applied to claims 1, 7 and 23 above and further in view of Otani *et al.* (Japaneses Patent Publication 06-260434). Applicants respectfully traverse this rejection for at least the following reasons.

Claim 2 is dependent from claim 1. Therefore, for at least the reasons provided above with respect to claim 1, Applicants respectfully submit that claim 2 is patentable and respectfully request that the rejection of claim 2 under § 103(a) be withdrawn.

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Tetsuka *et al.* (Japanese Patent Publication 06-061153A) in view of Hama *et al.* (US Pat. No. 5,525,159), Oyama (Japanese Patent Publication 02-237020), and Otani *et al.* (Japanese Patent Publication 06-260434) as applied to claim 2, and further in view of Omi *et al.* (Japanese Patent Publication 11-302824). Applicants respectfully traverse this rejection for at least the following reasons.

Claim 3 is dependent from claim 1. Therefore, for at least the reasons provided above with respect to claim 1, Applicants respectfully submit that claim 3 is patentable and respectfully request that the rejection of claim 3 under § 103(a) be withdrawn.

Claim 21-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tetsuka *et al.* (Japanese Patent Publication 06-061153A) in view of Hama *et al.* (US Pat. No. 5,525,159), and Oyama (Japanese Patent Publication 02-237020) as applied to claims 1, 7 and 23, and further in view of Matsuda *et al.* (US Patent No. 6,189,485). Applicants respectfully traverse this rejection for at least the following reasons.

Applicants have rewritten claim 21 as claim 1. Consequently, claim 21 has been canceled without prejudice or disclaimer.

Claim 22 is dependent from claim 1. Therefore, for at least the reasons provided above with respect to claim 1, Applicants respectfully submit that claim 22 is patentable, and respectfully request that the rejection of claims 21-22 under § 103(a) be withdrawn.

CONCLUSION

In view of the foregoing, the claims are now believed to be in form for allowance, and such action is hereby solicited. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the telephone number listed below.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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